

REMARKS

Claims 1, 3-15, 17-22, 24, 25, 27-29 and 31-33 remain pending in the application.

Claims 1, 3-15, 17-22, 24, 25 and 27-33 over Schmidt in view of Kostreski

In the Office Action, claims 1, 3-15, 17-22, 24, 25 and 27-33 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Schmidt et al. U.S. Patent No. 6,160,585 ("Schmidt") in view of Kostreski et al. U.S. Patent No. 5,729,825 ("Kostreski"). The Applicant respectfully traverses the rejection.

Claim 30 was previously canceled, making the rejection of claim 30 moot.

Claims 1, 3-15, 17-22, 24, 25, 27-29 and 31-33 recite, *inter alia*, local identifying code in a header of a data packet.

Schmidt appears to teach the use of a time division format, wherein the normal or baseline video is received continuously by all receivers, while only select data or information is decoded and stored by specific receivers (Schmidt, col. 2, lines 19-22). Based on a selection programmed into a receiving unit 100, Video Processing Equipment (VPE) 108 at the receiving end selects one of the addressable video segments 60 (Schmidt, col. 4, lines 19-27).

The Office Action correctly acknowledged that Schmidt fails to teach packetizing an information stream, wherein at least one of a plurality of local broadcast identifying codes is contained in a header of each data packet transmitted by a transmitter (Office Action, page 3). However, the Office Action relies on Kostreski to allegedly make up for the deficiencies in Schmidt to arrive at the claimed invention. The Applicant respectfully disagrees.

Kostreski appears to teach a cellular system for distributing a plurality of television programs in a desired service area (Abstract). A plurality of spaced transmitting antennas are disposed substantially on the peripheries of adjacent cells disposed in a service area (Kostreski, Abstract). Packetized data transmitted from the antennas includes a packet header section (Kostreski, col. 11, lines 1-2). The packet header includes a thirteen bit program identification

(PID) number identifying transport packets with a program or a source from which they originate (Kostreski, col. 11, lines 3-12).

Kostreski's header contains code identifying a program or source from which the data packet originates. Kostreski's fails to teaches any type of code within a header identifying a locality of the associated data packet. A header containing code to identify a program or source from which the data packet originates is NOT a header containing a local identifying code, as claimed by claims 1, 3-15, 17-22, 24, 25, 27-29 and 31-33.

The Office Action states that the Examiner did not use the PID taught by Kostreski to combine with Schmidt to arrive at the claimed invention, but the Examiner "implements the method of packetizing and inputting identifying code into packet for sharing bandwidth and protecting information data stream in free space." (Office Action, page 6). The Examiner implemented Kostreski into Schmidt to "show that an information data stream can be packetized and in the packet header contains an identifying code, which is for many purposes such as local ID code, program or source codes (Office Action, page 6). The Applicant respectfully disagrees.

The Examiner relies on Kostreski, that teaches placing source information in a header, to suggest Applicant's invention of placing local identifying code in a header. The Examiner's reasoning is misguided. Kostreski's system is unconcerned with, and therefore can not suggest placing local identifying code sent with a transmission. Kostreski's recipients are all intended to receive the same transmission. Placing local identifying code in Kostreski's header would serve no purpose to the system's functionality.

Here, Kostreski fails to disclose, teach, or suggest placing a local identifying code in a header of a data packet, as discussed above. Further, Schmidt fails, as noted by the Examiner (Office Action, page 3), to teach or suggest placing a local identifying code in a header of a data packet. Any suggestion of placing a local identifying code in a header of a data packet is at best improper hindsight. Recognizing a fact from the present application, without suggestion thereof by the prior art is an indication of hindsight consideration.

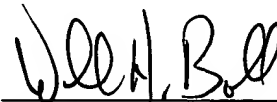
Hindsight is not a proper criteria for resolving obviousness. In re Warner, 379 F. 2d 1011, 154 USPQ 173 (CCPA 1967).

Accordingly, for at least all the above reasons, all rejected claims 1, 3-15, 17-22, 24, 25, 27-29 and 31-33 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,



William H. Bollman
Reg. No. 36,457

Manelli Denison & Selter PLLC
2000 M Street, NW
Suite 700
Washington, DC 20036-3307
TEL. (202) 261-1020
FAX. (202) 887-0336

WHB/df